

STATE OF MICHIGAN
COURT OF APPEALS

BEATRICE WOODS, Personal Representative of
the Estate of HOWARD WOODS, Deceased

UNPUBLISHED
May 24, 2002

Plaintiff-Appellant,

v

DIETECH TOOL and MANUFACTURING,
INC., and RICHARD MARTZ,

No. 230629
Wayne Circuit Court
LC No. 99-903673-NI

Defendants-Appellees.

Before: Smolenski, P.J., and Neff and White, JJ.

WHITE, J. (*dissenting*).

I would remand for further proceedings. The circuit court was certainly justified in finding fault with plaintiff for failing to provide any support for the claim that the accident caused decedent's death until one day before the hearing on the summary disposition motion, when plaintiff presented the affidavit of a treating physician who had not been listed by name on either of plaintiff's witness lists.¹ Further, the court correctly observed that the trial had been adjourned so that defendants could bring their motion. Nevertheless, there is no explanation for the court's imposition of \$5,000 costs as a condition for setting another trial date. There was no discussion of the additional expense to defendants, or the purpose of the costs assessed, whether to compensate defendants, or penalize plaintiff, only that the costs were imposed for the court having adjourned a trial date so that plaintiff could come in with an affidavit at the last minute. I would remand for further explanation or reconsideration of the amount.

/s/ Helene N. White

¹ Plaintiff's witness lists referred generically to "treating physicians." This was insufficient.